



THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N. Y. 10007

Technical Memorandum for the Coney Island Rezoning FEIS

CEQR Number 08DME007K TM001

June 15, 2009

A. INTRODUCTION

On June 5, 2009, the Office of the Deputy Mayor for Economic Development (ODMED), as Lead Agency, issued a Notice of Completion for the Coney Island Rezoning Final Environmental Impact Statement (FEIS) that was prepared in coordination with the New York City Economic Development Corporation (NYCEDC), the New York City Department of City Planning (DCP), and the New York City Department of Housing Preservation and Development (HPD). Following the issuance of the Notice of Completion, the City Planning Commission (CPC) has formulated and is considering modifications to the Uniform Land Use Review Procedure (ULURP) applications and an administrative correction to the form of the mapping application. CPC is considering these proposed modifications as a result of its review of the ULURP applications and comments made during public review of the Draft Environmental Impact Statement and the ULURP applications for the Coney Island Rezoning project. This Technical Memorandum describes the proposed modifications and examines whether they would result in any new or different significant adverse environmental impacts not already identified in the FEIS.

Under the administrative correction, the mapping application would contain four maps that could be filed in phases to facilitate the implementation of the mapping action. This administrative correction would not alter the nature or the substance of the mapping action and, therefore, is not considered further in this Technical Memorandum.

The proposed modifications, which are described and assessed below, would not affect the mapping actions, the zoning map amendment, the acquisition of privately-owned property by the City, the Urban Development Action Area Program designation and project approval, the disposition of City-owned property, and the approvals from the New York State Legislature for authorizations to alienate parkland and to enter into a long-term lease for the development and operation of the 9.39-acre mapped amusement park. In addition, the proposed modifications would not affect the type or amount of new development that would occur under the Reasonable

Worst-Case Development Scenario (RWCDs) established by DCP for the proposed actions and analyzed in the FEIS. The proposed modifications would affect the floor area, special use, and height and setback regulations of the Special Coney Island District zoning text amendment that was assessed in the FEIS¹.

This Technical Memorandum concludes that the proposed modifications would not result in any significant adverse environmental impacts not already identified in the FEIS. To preclude the potential for significant adverse impacts on air quality, the analysis below concludes that a new E-designation would be required for Projected Development Site 3.

B. DESCRIPTION OF PROPOSED MODIFICATIONS

MODIFICATIONS TO FLOOR AREA REGULATIONS

The proposed modification to the floor area regulations of the Special District text is as follows:

- On the westernmost block in the Coney West subdistrict, the Special District would be modified to allow for a transfer of floor area between the landmarked Childs Restaurant building on the Surf Block of Projected Development Site 2 and the proposed development on the Surf Block of Projected Development Site 1 across West 21st Street. This modification would facilitate a transition of bulk away from the low-rise Childs Restaurant building, the proposed Highland View Park across West 22nd Street, and the existing context outside the western boundary of the rezoning area.

The Childs Restaurant building on the Boardwalk is currently developed at a floor area ratio (FAR) of 2.36. Under the proposed modification, the developer of the Surf Block of Projected Development Site 2 would be able to transfer the difference between the existing FAR and the proposed 5.8 FAR, which is approximately 86,000 square feet. While this transfer would result in a slightly larger building on Projected Development Site 1, the transfer would be required to fit within the RWCDs maximum height envelopes analyzed in the FEIS for the projected development sites.

MODIFICATIONS TO SPECIAL USE REGULATIONS

The proposed modifications to the special use regulations of the Special District text are as follows:

- In the Coney East subdistrict, fifteen percent of the building frontage along the south side of Surf Avenue, both sides of Stillwell Avenue, and the west side of West 10th Street would be required to be occupied by amusement uses within Use Group A(1). In the zoning text amendment assessed in the FEIS, amusement uses within Use Group A(1) are allowed along these streets but are not required.
- The definition of hotels would be modified to maintain the requirement that hotels be used exclusively for transient occupancy while otherwise maintaining consistency with the Use

¹ Subsequent to the issuance of the Draft Environmental Impact Statement for the Coney Island Rezoning on January 16, 2009, the DCP filed a modified application—ULURP No. 090273(A)ZRK—for the Special Coney Island District text on April 9, 2009 in response to community comments received during the public process. The modified application was analyzed in the FEIS and it is currently under consideration by the CPC.

Group 5 definition in Section 12-10 of the Zoning Resolution. This modification would require that hotels in the Special District are used exclusively, and not primarily, as transient hotels.

- The maximum 60-foot frontage per establishment rule—for Surf Avenue in the Coney East subdistrict and for all streets in the Coney North and Coney West subdistricts—would be modified to require a minimum of four establishments per block. This modification would allow retail programming to be designed with floodplain mitigation measures (described below) while ensuring retail diversity and a vibrant street life.
- The Special District would be modified so that the existing, underlying C7 zoning would apply on the area to be mapped as an outdoor amusement park (Parcel 1).

MODIFICATION TO HEIGHT AND SETBACK REGULATIONS

The proposed modifications to the height and setback regulations of the Special District text are as follows:

- The rule regarding height limits in the Coney North subdistrict on the blocks bounded by West 15th and West 20th Streets, within 40 feet of the Mermaid Avenue subdistrict, would be eliminated. Development within this area—where heights are limited to 23 feet, with some exceptions, in the zoning text amendment assessed in the FEIS—would be able to rise to the maximum base height of 65 feet and the transition height of 85 feet established for the side streets in the Coney North subdistrict. In addition, the transition height rule for the side streets in the Coney North subdistrict would be modified. The zoning text amendment assessed in the FEIS allowed the streetwalls on the side streets located beyond 100 feet but not further than 170 feet from Surf Avenue to rise above the maximum base height to the 85-foot transition height. With the proposed modification, the streetwalls on the side streets could rise to the transition height to within 100 feet of Mermaid Avenue (i.e., which would be approximately 290 feet from Surf Avenue). This modification to the transition height rule would also apply to the block bounded by West 15th Street and Stillwell Avenue.

These modifications would not result in increased total bulk on the Coney North development sites. Because the maximum FAR for each development site within the Coney North subdistrict is not being modified, an increase in the height of a development within 40 feet of Mermaid Avenue on the blocks between West 15th and West 20th Streets or along the side streets on the block bounded by West 15th Street and Stillwell Avenue would result in less bulk elsewhere on that development site. For example, if the portion of a development within 40 feet of Mermaid Avenue is maximized, then only one tower could be built as part of that development instead of two towers as assessed in the FEIS, and the tower, which would be located on Surf Avenue, would be shorter than the maximum allowable tower height.

- Three options to mitigate the difference between the street grade and the base floodplain elevation would be defined:
 - To create incentives for internal ramps, stairs and ADA accessible lifts that would provide access to the lowest story of a building above the base floodplain elevation from the public sidewalk, up to 300 square feet of area utilized for this purpose would be exempted from the definition of floor area.
 - To minimize the visual impact of ramps, stairs and ADA accessible lifts provided outside of the building, a streetwall recess would only be permitted for access to

building entrances of up to 20 feet in width and 10 feet in depth. In addition, to ensure adequate light into the entry space of such a recessed area, a minimum of 15 feet in height would be required, as measured from the base floodplain elevation.

- Outside ramps breaking the streetwall requirement shall be permitted only by authorization of the City Planning Commission. This would be a discretionary process that would allow the Commission to define satisfactory design standards.

C. POTENTIAL IMPACTS OF THE PROPOSED MODIFICATIONS

The proposed modifications would not affect the RWCDS site plan or the type or amount of development associated with the RWCDS, as described and analyzed in the FEIS. The total and net incremental development on the Projected Development Sites shown in Tables 1-10 and 1-11 in Chapter 1, "Project Description" of the FEIS would be the same with the proposed modifications. Therefore, the RWCDS site plan and program would be the same with the proposed modifications as it was with the proposed actions assessed in the FEIS. For those impact areas for which the analysis was based on the RWCDS site plan and program, the conclusions of the FEIS would be unchanged by the proposed modifications, because the worst-case scenarios analyzed in the FEIS for these categories would also represent the worst-case scenarios for the proposed modifications. The impact areas not affected by the proposed modifications are: socioeconomic conditions, community facilities, open space, natural resources, hazardous materials, infrastructure, solid waste and sanitation services, energy, traffic, parking, transit, pedestrians, air quality (mobile source only), noise, construction, and public health. For the significant adverse impacts associated with community facilities (day care only), traffic and parking, transit and pedestrians, and noise, the same mitigation set forth in Chapter 22, "Mitigation," of the FEIS would be required for the proposed modifications.

However, the proposed modifications could affect the bulk and massing (including streetwall, height, and setback) of the RWCDS assessed in the FEIS, as well as the location and number of amusement and commercial uses within the developments. Therefore, the analyses below address those studies where the modifications could represent a material change from the RWCDS analyzed in the FEIS.

LAND USE, ZONING AND PUBLIC POLICY

The proposed modifications to the Special Coney Island District, which would include amusement and retail frontage requirements, would not change the land uses allowed or alter the mix of uses and densities examined in the FEIS under the RWCDS. Therefore, there would be no difference in the assessment of potential land use changes or impacts compared with the FEIS, and, like the proposed actions, adoption of these modifications would not result in any adverse environmental impacts on land use. Similarly, since the overall Coney Island Rezoning project remains essentially the same, the proposed modifications do not alter the FEIS conclusions that the project is consistent with public policy, most notably the Coney Island Strategic Plan and PlaNYC.

The proposed zoning modifications to the floor area regulations, use regulations, and height and setback requirements of the Special District text are intended to make the proposed zoning more effective and to facilitate implementation. Because the proposed zoning modifications are specific to the goals and objectives, and the unique circumstances of the Special District, they are not intended to result in city-wide zoning changes. Therefore, the modifications would not

have any additional potential to impact zoning compared with the proposed actions set forth in the FEIS.

SHADOWS

The only proposed modifications that would have the potential to affect the analysis of shadows in the FEIS are the transfer of FAR from the Childs Restaurant building and the modifications related to height limits in the Coney North subdistrict.

However, the transfer of FAR from the Childs Restaurant building across West 21st Street to Projected Development Site 1 would not affect the conclusions of the shadows analysis in the FEIS, because the FEIS analyzed maximum heights on the projected development sites. Therefore, the proposed modifications, like the proposed actions, would not result in significant adverse shadow impacts on open spaces within the perimeter representing the maximum shadow length from the RWCDs for the Coney West subdistrict. In addition, the proposed transfer of floor area could likely result in a slight reduction in project-generated shadows on the proposed Highland View Park.

As described in the FEIS, the RWCDs for the proposed actions would only cast shadow on the Our Lady of Solace Roman Catholic Church on the December 21 analysis day. The RWCDs assessed in the FEIS would not cast incremental shadow on the church on the other three analysis days: March 21/September 21, May 6/August 6, and June 21. With the proposed modifications, the shadow increment on the Our Lady of Solace Roman Catholic Church on the December analysis day would be reduced. Assuming that the base and transition heights on Coney North Projected Development Sites 5, 6, and 7 are maximized, the number of towers developed on those sites would be reduced, as would the heights of the towers that would be developed along Surf Avenue on those sites. On Projected Development Sites 5, 6, and 7, the portions of the developments within 40 feet of Mermaid Avenue at the maximum allowable height would not be tall enough to cast incremental shadow on the church on the December analysis day and the shorter remaining towers would result in less shadow increment on the church. Therefore, the proposed modifications would result in less overall shadow increment on the church and, like the proposed actions, would not result in significant adverse shadow impacts.

HISTORIC RESOURCES

The Childs Restaurant on the Boardwalk is a designated New York City Landmark (NYCL). Chapter 7, "Historic Resources" of the FEIS concluded that there would be no adverse visual or contextual impacts on the Childs Restaurant building from the development on Projected Development Site 2, because building height and setback regulations would limit the maximum height of the adjacent building on the Boardwalk to the height of the Childs restaurant, and the tower portion of the proposed development would be located at the northwest corner of the projected development site, away from the historic resource. The proposed modification to allow a transfer of floor area from the Childs Restaurant building would result in a smaller development on the Surf Block of Projected Development Site 2, which would be more in keeping with the scale of the Childs Restaurant building. Therefore, while the proposed actions as assessed in the FEIS would not result in significant adverse impacts on the Childs Restaurant building, the proposed modifications also would not result in any significant adverse impacts on the Childs Restaurant building, but would result in a development that would be more in keeping with the scale of the historic resource than the proposed actions.

The proposed modification to the transition height rule for the Coney North subdistrict could result in a tower on Projected Development Site 3, adjacent to the Shore Theater, which would be substantially shorter than the 270-foot-tall tower analyzed in the FEIS. The Shore Theater has been determined eligible for NYCL designation and listing on the State and National Registers of Historic Places. If the development on Projected Development Site 3 were to maximize the base and transition heights, then the tower would be 120 feet tall. This would eliminate the potential significant adverse visual and contextual impact on the Shore Theater that was identified in the FEIS from development of Projected Development Site 3.

URBAN DESIGN AND VISUAL RESOURCES

Overall, the proposed modifications would not alter the conclusions of the urban design and visual resources analysis in the FEIS and there would be no significant adverse impacts on the urban design and visual resources of the rezoning area and study area. Changes to topography, the street pattern, block shapes, building arrangements, and building use, bulk, and density would be the same with the proposed modifications as with the proposed actions assessed in the FEIS. The proposed options to mitigate the difference between the street grade and the base floodplain elevation would be new streetscape features for the proposed developments, but these would still mandate that a building be at the streetwall assessed in the FEIS, except for entrances. For any outside ramps that would break the streetwall, CPC authorizations would be required and these discretionary actions would be subject to environmental review, at which time urban design impacts would be considered.

The elimination of the height limit within 40 feet of Mermaid Avenue and the modification of the transition height rule for the side streets in the Coney North subdistrict could result in developments on the Coney North blocks with different height and setback characteristics than were analyzed in the FEIS. On these blocks, buildings could be developed with fewer and shorter towers and taller mid-rise sections on Surf Avenue and the side streets. Although building heights within 40 feet of Mermaid Avenue on the blocks between West 15th and West 20th Streets could rise to a maximum base height of 65 feet and a transition height of 85 feet, this modification would not adversely affect the goal of the proposed actions to regulate building heights to reflect the larger scale of Surf Avenue and the low-rise scale on the side streets moving north to the low-rise residential neighborhood north of Surf Avenue. With the proposed modifications, developments in the Coney North subdistrict would still transition in height downward from Surf Avenue toward Mermaid Avenue, and the portions of the developments on the side streets in proximity to Mermaid Avenue would still be in keeping with the height of existing buildings on Mermaid Avenue, as well as with the heights of buildings developed on Mermaid Avenue under the proposed actions. Therefore, the building height regulations in the proposed modifications would, like the proposed actions assessed in the FEIS, result in a continuous and cohesive building design for the projected and potential development sites in the Coney North subdistrict that would be in keeping with the taller and larger development proposed along Surf Avenue and the existing smaller, low-rise buildings along Mermaid Avenue.

WATERFRONT REVITALIZATION PROGRAM

As described in Chapter 12, “Waterfront Revitalization Program” of the FEIS, the proposed actions were found to be consistent with the WRP’s policies of supporting and facilitating residential and commercial development where appropriate; protecting and improving water quality in the coastal area; avoiding adverse effects to the coastal area as a result of solid waste

and hazardous substances; providing public access to and along the City's coastal waters; protecting scenic resources that contribute to the visual quality of New York City; and avoiding adverse effects to historic and cultural resources. Since none of the proposed modifications assessed in this Technical Memorandum would change the RWCDs and the overall actions, the finding of consistency would remain the same with the proposed modifications as with the proposed actions assessed in the FEIS.

The proposed modifications to the height and setback regulations specific to integrating ADA compliant ramps and access with a minimum of visual impact would provide an enhanced opportunity to comply with Policy 6.1 of the WRP ("Minimize losses from flooding and erosion by employing non-structural and structural management measures appropriate to the condition and use of the property to be protected and the surrounding area"). The proposed modifications would ensure that appropriate design measures could be implemented to provide access to ground-floor commercial spaces located close to or at the 100-year floodplain elevation. This is in addition to the benefit of raising street grades to enable ground-floor commercial spaces on those streets to be at, or close to, the 100-year floodplain elevation that was identified in the FEIS.

TRANSIT AND PEDESTRIANS

The proposed modifications would have no effect on the FEIS analysis of transit and pedestrian conditions in the future with the proposed actions, since there would be no change in transit or pedestrian trip generation. The identification of potential adverse impacts and the mitigation analyzed in the FEIS would remain unchanged.

It is noted that the design modifications associated with the ability to provide ADA compliant ramps and access to buildings would not affect pedestrian conditions. Ramps would not be allowed on sidewalks. Even in the instance where a developer could, through CPC certification, provide a ramp that breaks the streetwall requirement, the ramp would have to be placed entirely on private property.

AIR QUALITY

HVAC SYSTEMS

For the FEIS, emissions from the heating, ventilation, and air conditioning (HVAC) systems for the proposed towers were analyzed to assess their potential to impact neighboring taller towers. Based on the floor area of the proposed developments, the tower heights, and distances to neighboring towers, restrictions on the use of No. 4 fuel oil in certain locations, including specific towers in Coney North, were recommended to preclude the potential for significant impacts on air quality. The restrictions would be implemented through E-designations that would be incorporated into the proposed zoning for the affected sites or through Memorandums of Understanding established for City-owned parcels. The restrictions discussed in the FEIS would remain under the proposed modifications.

Methodology for the Assessment of the Proposed Modifications

As a result of the proposed modifications affecting the height and setback regulations applicable to the Coney North subdistrict, proposed towers in the Coney North subdistrict along Surf Avenue could be shorter than the tower heights analyzed in the FEIS. To assess the potential for new impacts with the proposed modifications, a conservative HVAC screening analysis was

performed for each of the towers that could be built on Sites 3, 4, 5, 6, and 7, along Surf Avenue, following the methodology described in the *CEQR Technical Manual*.

The nearest taller building for each tower was assumed to be the nearest tower, as a range of heights up to the proposed maximum would be allowed. For example, in the FEIS the tower on Site 3 was assumed to be taller than the nearest tower on Site 4. With the proposed modifications it is not certain which of those two towers would be taller. Thus, in analyzing the potential for impacts from the Site 3 tower, it was assumed that the Site 4 tower would be taller, while in analyzing the potential for impacts from the Site 4 tower, it was assumed that the Site 3 tower would be taller.

Results

Based on the HVAC screening analysis, a new restriction on the use of No. 4 fuel oil would have to be placed on the Site 3 tower that could be developed under the proposed modifications to preclude the potential for significant adverse impacts on air quality.

A restriction on the use of No. 4 fuel oil for the Site 4 Surf Avenue tower was identified in the FEIS. That restriction would be sufficient to preclude the potential for significant air quality impacts, if the tower developed under the proposed modifications on Site 3 remains the taller of the two.

With the proposed modifications, the Surf Avenue tower on Site 5 could end up being shorter than the nearest tower to it—the Surf Avenue tower on Site 6. Based on the screening analysis, there would be no potential for significant adverse impacts from the tower on Site 5, with the proposed modifications. Similarly, the southern tower on Site 6 could end up being shorter than the nearest tower to it—the southern tower on Site 5. The screening analysis accounting for that scenario shows that there would be no potential for a significant adverse impact on air quality. With the proposed modifications, the Surf Avenue tower on Site 7 could end up being shorter than the nearest tower on Site A. However, even under that scenario, there would be no potential for significant adverse impacts on air quality.

CONCLUSION

In summary, the only potential for impacts on air quality from HVAC systems associated with the proposed modifications would result from use of No. 4 oil in the tower on Projected Development Site 3. To preclude the potential for significant adverse air quality impacts, an E-designation that would restrict the use of No. 4 oil would be incorporated into the proposed zoning for Site 3.

The text of the E-designation would be as follows:

Block 7063, Lots 27, 28, 31, 32, 35, 37, and 38 (Projected Development Site 3)

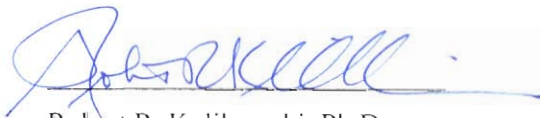
Any new residential and/or commercial development on Block 7063, Lots 27, 30, 31, 32, 35 (Surf Avenue tower on Site 3) must ensure that No. 2 fuel oil or natural gas is used for the heating, ventilation, and air conditioning systems.

With this restriction in place, along with the restrictions specified in the FEIS, there would be no potential for any significant air quality impacts from the proposed modifications.

CONCLUSIONS

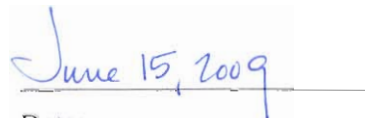
The proposed modifications to the Special Coney Island District zoning regulations would not result in any significant adverse environmental impacts that were not identified in the FEIS. For the most part, the proposed modifications would not affect the majority of environmental impact areas assessed in the FEIS.

The proposed modifications regarding the special use regulations are consistent with the land use, zoning, and public policy analysis presented in the FEIS, and the proposed modifications regarding the ability to provide ADA compliant ramps and access to buildings are consistent with the urban design, waterfront revitalization, and pedestrian analyses presented in the FEIS. The proposed modifications to the height and setback regulations could result in changes to the RWCDs for the Coney North subdistrict shown in the FEIS but would have no substantive impact on the shadows, historic resources, and urban design analysis areas examined in the FEIS. In addition, the modifications would have beneficial effects on the Our Lady of Solace Roman Catholic Church by reducing the overall shadow increment on the church and on the Shore Theater and Childs Restaurant building historic resources by resulting in a more contextual development adjacent to these buildings, thus eliminating the potential significant adverse visual and contextual impact identified in the FEIS for the Shore Theater. To preclude a significant adverse air quality impact that could potentially result from the height and setback modifications related to the Coney North subdistrict, an E-designation that would restrict the use of No. 4 oil would be incorporated into the proposed zoning for Projected Development Site 3.



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Date: